IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4073 OF 2007

Mrs.Ratna Kiran Ayrekar ....Petitioner
V/s
Vilas Ganpatrao Satpure & Ors..... ....Respondents.

Mr.M.M.Sathaye, Adv. For the petitioner.

CORAM: A.P.DESHPANDE, J.

11/10/07

PC:

The petitioner is the original plaintiff who instituted suit for partition and separate possession of 1/6th share. The plaintiff has pleaded in the plaint that though the suit property is in the name of defendant No.2, brother of the plaintiff, but in fact the property was purchased by father of the plaintiff in the name of defendant No.2. Defendant No.2 has filed written statement and denied the fact that the property was purchased by father in the name of defendant. On the contrary defendant No.2 has asserted that it is he who out of his own efforts has purchased the property. In these pleadings an application for passing of decree on admission has been filed by the plaintiff purportedly under order 12 rule 6 of Code of Civil Procedure and the rejection of the said application by trial Court has given rise to filing of this writ petition. I have carefully perused the pleadings. Defendant No.2 has not admitted the facts on which the case of the plaintiff is based viz. Purchase of property by father in the name of defendant No.2. In this view of the matter the trial Court is justified in rejecting the application. No case for interference is made out. Hence writ petition is summarily dismissed.

11.10.07